



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/159453

PRELIMINARY RECITALS

Pursuant to a petition filed July 31, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on August 26, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly terminated the Petitioner's FoodShare benefits effective July 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Simone Johnson, Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On June 18, 2014, the agency sent the Petitioner a notice indicating that her benefits would be ending on July 1, 2014, because she had not completed her renewal. (Exhibit 5, pgs. 36-39)

3. On June 30, 2014, the Petitioner completed an on-line renewal form, in which she reported working a new job since April 2014. (Exhibit 5, pgs. 51-62)
4. On July 3, 2014, the agency sent the Petitioner a notice indicating that there was no change in her benefits, meaning she was not receiving Foodshare benefits. (Exhibit 5, pg. 40-43)
5. Also on July 3, 2014, a Notice of Action and Proof Needed requesting verification of employment by July 14, 2014. Examples of acceptable verification were listed, such as the last 30 days paystubs, the Employer Verification of Earnings Form signed by the employer or other signed statement from her employer. (Exhibit 5, pgs. 25 and 26)
6. On July 9, 2014, the Petitioner provided the agency with two paystubs, one dated May 9, 2014 and one dated July 3, 2014. (Exhibit 5, pgs. 22 and 23)
7. On July 10, 2014, the Petitioner called the agency to complete her FoodShare interview and reported that she had sent in her verification. The agency worker informed the Petitioner that the May 9th and July 3rd check stubs were not sufficient and that she needed to provide the current 30-days worth of pay stubs. (Exhibit 5, pg. 9)
8. On July 11, 2014, the agency sent the Petitioner another Notice of Proof Needed, again advising her that she needed to provide acceptable proof of income by July 14, 2014. (Exhibit 5, pgs. 31-35)
9. The Petitioner did not provide the second pay stub for July 2014, because she did not feel her check stubs from July 2014 accurately reflected her income. Apparently, the Petitioner earned extra income in July 2014, because she received holiday premiums for the July 4th holiday. (Testimony of Petitioner)
10. On July 3, 2014, the agency sent the Petitioner a notice indicating that for the period of July 1, 2014 through August 2014, she was not enrolled in the FoodShare program, because she did not provide the requested proof. (Exhibit 5, pgs. 45-47)
11. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on July 31, 2014. (Exhibit 1)

DISCUSSION

Most individuals are certified to receive FoodShare benefits for a 12-month period, after which time, the individual must complete a renewal / review. *FoodShare Wisconsin Handbook (FSH) §2.2.1; 7 CFR 273.14(a) and 7 CFR 283.10(f).*

There are several steps to completing a recertification (review) for FS cases:

1. Notification must be sent to the recipient informing him/her that the certification period is ending and an interview ([2.1.3](#)) must be conducted if benefits are to continue.
2. An interview must be conducted and the recipient must be notified of verifications required to determine continued eligibility for the program.
3. Certain information gathered at the interview must be verified ([1.2.1](#)).
4. Benefit eligibility must be confirmed in CARES ([2.1.9](#)) in order for the review or recertification to be considered complete.

FSH §2.2.1.3; 7 CFR 273.14(b)

The FoodShare case will close, if recertification is not completed, including confirmation/verification. FSH §2.2.1.4

The Petitioner did not complete certification, because she did not timely follow through with verifying her income.

“Requests for verification MUST be made in writing. Verbal requests are not acceptable and will not stand up in a fair hearing. Workers are required to give the customer notice regarding required verification, when it is due to the agency, and the consequences of not verifying timely.” *Wisconsin FoodShare Manual §1.2.1.2, 7 CFR 273.2(c)(5)*

The state agency must give households 10 days to provide required verification and may not deny the FoodShare group benefits for failure to provide the required verification until the 10th day after requesting verification. 7 C.F.R. 273.2(f) see also *Wisconsin FoodShare Manual §1.2.1.2*

The notice sent on July 3, 2014 clearly indicated that the Petitioner needed to provide verification of her income, which could be either 30-days worth of paystubs **or** a signed statement from her employer **or** a signed Employer Verification of Earnings Form from her employer. The July 3, 2014 notice clearly stated that the required proof needed to be provided to the agency, by July 14, 2014, otherwise her benefits could be denied, decreased or ended. The Petitioner did not comply with the agency’s request for verification.

Based upon the foregoing, it is found that the agency correctly terminated the Petitioner’s FoodShare benefits effective July 1, 2014.

The Petitioner argues that she should not have been held to the July 14, 2014 deadline, because she did not timely receive the Notice of Proof Needed. The Petitioner claimed that she did not get the notice of proof needed until the end of July beginning of August. The Petitioner’s claim is not credible, given that she sent in the May 9th and July 3rd paystubs on July 9, 2014. Further, the agency sent her another copy of the request for proof needed on July 11, 2014.

The Petitioner also made the equitable argument that it was unfair to reject the paystubs that she did provide, because her two July paystubs would not have accurately reflected her income, due to bonus pay and extra hours she worked during the July 4th holiday. However, administrative law judges do not possess equitable authority and must apply the rules as they are written. Further, the Petitioner had other options, besides providing the July paystubs to verify her income; she could have provided her two paystubs from June, or several months worth of paystubs; she could have provided a simple signed statement from her supervisor stating how many hours per week she works, at what rate of pay and how frequently she gets paid. Petitioner didn’t even do this.

CONCLUSIONS OF LAW

The agency correctly ended Petitioner’s Foodshare benefits effective July 1, 2014.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of September, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 17, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability